

### **Remarks**

The Office Action and the references cited therein have been carefully reviewed. The following remarks herein are considered to be responsive thereto. Claims 1, 3-13, 15, 16, 18 and 19 remain in this application. Claims 1 and 13 are presently amended by this amendment and Claims 2 and 14 have been cancelled by this amendment.

The Examiner rejected claims 1, 2, 5, 6, 8, 9, 13, 14 and 16 under 35 U.S.C. §102 (e) as being anticipated by US Patent No. 6,049,281 issued to Osterweil (Osterweil).

Further, the Examiner rejected claims 3, 4 and 18 under 35 U.S.C. §103 (a) as being unpatentable over Osterweil in view of US Patent No. 6,323,761 issued to Son (Son). Claims 7, 15 and 19 were rejected by the Examiner under 35 U.S.C. §103 (a) as being unpatentable over Osterweil in view of US Patent No. 6,062,216 issued to Corn (Corn). Claims 10-12 were rejected by the Examiner under 35 U.S.C. §103 (a) as being unpatentable over US Patent No. 6,160,478 issued to Jacobson in view of US Patent No. 5,462,051 issued to Oka, et al.

In response, Applicants have amended independent claims 1 and 13. Applicants respectfully submit that independent claims 1, 10 and 13 are patentably distinguished over the cited references and are allowable and that claims 3-9, 11, 12 and 15, 16, 18 and 19 are allowable at least because they depend from an allowable base claim.

The patent to Osterweil discloses a method and device for monitoring an individual in order to determine when the individual is likely to exit a supportive structure. The system device comprises an image-capturing device that captures successive images of a monitored individual in a supportive structure, wherein the

supportive structure can comprise a bed, a chair, a wheelchair or a traction recovery device.

A processing device compares a current captured image to a previously captured image in order to detect predetermined characteristics of the position of the monitored individual with respect to the supportive structure. An alarm is actuated when it is determined that the detected that the individual may or has exited the supportive structure.

The patent to Jacobsen discloses a system for the remote monitoring of a person that comprises at least one accelerometer capable of measuring both the magnitude and direction of the acceleration of a person. The severity of the acceleration of a fall of the person is calculated based upon the accumulated acceleration data. If it is determined that the severity of the fall is outside an acceptable limit a signal is communicated to a remote monitoring unit.

The patent to Oka discloses a medical communication system for the transmission of physical information relating to a patient and a voice signal from the location of the individual via a *common communication channel*. Col. 1, lines 43-47. Utilizing transmitted physical data and voice communication with the patient or the patient's attendant, the healthcare professional can ascertain the current condition of the patient and determine appropriate medical treatments for the patient. Therefore, even though a healthcare professional may be located a considerable distance from a patient, the healthcare professional can receive the physical information of the patient and additionally give instructions to the patient and/or attendant of the patient.

Claims 1 and 13 of the present application are being amended for clarification purposes to more accurately and definitively set forth the invention. Claim 1 has been amended to particularly set forth a controller that is programmed to receive at least one monitor signal from an environment monitor located in a monitored zone, wherein said at least one monitor signal includes at least one of a still image, video, and audio data.

Nowhere is it taught in Osterweil that the controller receives an audio input from an environmental monitor in a monitored zone. Osterweil is limited in scope to a device that “is primarily concerned only with the detection of movement in a monitored area, and not with [the] specific features of the monitored individual.” Col. 2, lines 27-30. It is not taught or disclosed in Osterweil that a monitor signal can comprise audio data.

Therefore, it is respectfully submitted that claims 1 and 13 are allowable for at least the given reasons. Further, claims 3-9 and 15, 16 18 and 19, which depend from claims 1 and 13, are allowable therewith at least because they depend from an allowable base claim. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 1 and 13 under 35 U.S.C. §102 (e).

In regard to claim 10, the Examiner states that Jacobson and Oka “are both within the art of monitoring people,” and that it would have been obvious to modify Jacobson “so that one of the two people being monitored is a caretaker, as taught by Oka.” The Applicants’ respectfully disagree that it would not be obvious to modify Jacobson in view of Oka.

While Jacobson may disclose the continuous monitoring of an individual, Oka specifically discloses a communication system wherein the patient or the patient’s

attendant initiates communication with a caretaker and thereafter provides patient monitor information to the caretaker.

The Examiner specifically states that Jacobson “does not specify one of the two people monitored being a caretaker of a person.” Further, the Examiner states “Oka et al teaches a medical communications system in which a caretaker as well as a patient is being monitored (fig. 1, parts 18 and 48). However, while Oka does disclose that a patient is monitored (e.g., ECG monitor 20), the only monitoring device associated with a caretaker is the host monitor display 46.

The host monitor display of Oka is utilized to display any transmitted monitored data that relates to the current physical state of a patient. The data comprising a communication signal that is mixed with a voice signal, thus allowing a caretaker to have real-time monitoring and verbal communication with a patient. The system in no way teaches that the caretaker is in continuous verbal communication with a patient or physically monitoring a patient, nor does it disclose that the caretaker is themselves being monitored. The system of Oka is limited in scope to a communication system and in no way teaches that the communication system is to be used as or in conjunction with a monitoring device as presently claimed in the Applicants’ invention.

Therefore, it is respectfully submitted that claim 10 is allowable for at least the given reasons. Further, claims 11 and 12, which depend from claim 10, are allowable therewith at least because they depend from an allowable base claim. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 10-12 under 35 U.S.C. §103(a).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be

allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Wendell A. Peete, Jr.', with a stylized, cursive script.

Wendell A. Peete, Jr.  
Registration No. 52,108

Scully, Scott, Murphy & Presser  
400 Garden City Plaza  
Garden City, New York 11530  
(516) 742-4343  
WAP:jf